



## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 73

[Docket No. FAA-2021-0074; Airspace Docket No. 20-ANE-5]

RIN 2120-AA66

#### **Proposed Amendment of Restricted Areas R-4102A and R-4102B; Fort Devens, MA**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to modify restricted areas R-4102A and R-4102B at Fort Devens, MA, by amending the boundaries of the areas to align with the boundaries of the Fort Devens installation; and by changing the time of designation to reflect actual usage of the airspace.

**DATES:** Comments must be received on or before [INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M-30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001; telephone: (202) 366-9826. You must identify FAA Docket No. FAA-2021-0074, Airspace Docket No. 20-ANE-5, at the beginning of your comments. You may also submit comments through the Internet at [www.regulations.gov](https://www.regulations.gov). Comments on environmental and land use aspects should be directed to Emily Babbit De Nicasio, Environmental Director DPW USAG Fort Devens, 30 Quebec St., Box 10, Devens, MA 01434-4479, telephone: (978) 796-2096, fax: (978) 796-2557

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

## **SUPPLEMENTARY INFORMATION:**

### **Authority for this rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify restricted area airspace at Fort Devens, MA, to enhance aviation safety and accommodate essential U.S. Army hazardous training activities.

### **Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA-2021-0074; Airspace Docket No. 20-ANE-5) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at <https://www.regulations.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2021-0074; Airspace Docket No. 20-ANE-5." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### **Availability of NPRMs**

An electronic copy of this document may be downloaded through the Internet at <https://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at [https://www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](https://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received and any final disposition in person at the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

## Background

Fort Devens was established in 1917 as "Camp Evans." It was renamed Fort Devens in 1932. In 1991, the Base Realignment and Closure Commission (BRAC) recommended the closure of Fort Devens as an active U.S. Army installation and the retention of those areas and facilities essential to support the U.S. Army Reserves.<sup>1</sup> As a result of BRAC's recommendation, Fort Devens closed as an active duty U.S. Army installation on March 31, 1996, and, the next day, transitioned to a U.S. Army Reserve installation. Fort Devens remains an active training site for Reserve and National Guard forces.

Restricted airspace supporting the Fort Devens training areas consists of R-4102A and R-4102B. R-4102A extends from the surface to, but not including, 2,000 feet MSL. R-4102B overlies R-4102A sharing the same lateral boundaries. R-4102B extends from 2,000 feet MSL to 3,995 feet MSL.

The current time of designation of the restricted areas is "0800 to 2200 Saturday local time; other times by NOTAM issued 24 hours in advance". These times were adequate when Fort Devens became an U.S. Army Reserve installation in 1996 because training took place only on Saturdays. However, in succeeding years, the amount of training has significantly increased due to improved capabilities of the Range Complex and Training Areas, and greater demands for training. Today, Fort Devens provides training support for all military service branches.<sup>2</sup> Consequently, training is being conducted throughout the week rather than only on Saturdays.

An FAA review of Restricted Area Annual Utilization Reports for R-4102A and R-4102B noted that the restricted areas are being used significantly more than the published time of designation. However, the existing provision for "other times by NOTAM issued 24 hours in advance" allows for the additional use. FAA policy in FAA Order 7400.2, Procedures for Handling Airspace Matters, states that the published time of designation should reflect times

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<sup>1</sup> Defense Base Closure and Realignment Commission: Report to the President (1991).

<sup>2</sup> Under the shared use concept in FAA Order 7400.2, the FAA expects the military to share use of its special use airspace (SUA) with other military units to the extent possible to preclude creation of additional SUA.

when use of the airspace is normally expected to occur. Modifying the published times for R-4102A and R-4102B to reflect current actual usage would provide more accurate usage information to the aviation community, reduce the reliance on the NOTAM system for announcing routine daily use of the airspace, eliminate the administrative workload of issuing daily NOTAMs, and help reduce the large volume of daily NOTAMs in the system.

Additionally, certain portions of restricted areas R-4102A and R-4102B extend beyond the property boundaries of the Fort Devens installation and are not being used for military activities and need to be removed from the restricted airspace. A small section along the northern edge of the airspace overlies the Souza-Baranowski Correctional Center, and is not usable for military training due to the proximity of people and facilities on the ground. The northeast section of the airspace extends over part of the Oxbow National Wildlife Refuge, and is not usable for military training for environmental reasons. The southwest section of the airspace, toward the town of Lancaster, MA, is not used due to the proximity of residential and commercial property.

Finally, there are three sections of the military training area that are contained within the Fort Devens installation property boundary, but are not covered by the current restricted airspace. These areas are: a small slice along the southeast side of the restricted areas; a small section on the northern side; and, a larger area along the northwest side of the restricted area. The restricted airspace needs to be expanded to contain these sections in order to better utilize the Fort Devens installation training area.

## **The Proposal**

The FAA is proposing an amendment to 14 CFR part 73 to modify the time of designation, and the boundaries of restricted areas R-4102A and R-4102B at Fort Devens, MA. The current time of designation is “0800 to 2200 Saturday local time; other times by NOTAM issued 24 hours in advance.” This designation does not reflect the actual routine daily use of the airspace necessary to meet the training requirements at Fort Devens. The FAA proposes to

amend the time of designation to read: “Intermittent, 0730 to 2200 local time, daily; other times by NOTAM issued 24 hours in advance.” This change would provide more accurate information to the aviation community about the current routine use of the airspace, and it would eliminate the administrative workload of issuing daily NOTAMs to activate the restricted areas.

The FAA also proposes to modify the boundaries of restricted areas R-4102A and R-4102B by removing sections of the restricted airspace that are not contained within the Fort Devens installation property boundaries. Additionally, it proposes to slightly expand the restricted areas on the northwest, northeast, and southeast sides to include small parts of the training area that are currently located within the Fort Devens installation property boundaries, but are not covered by the current restricted area boundaries. These proposed boundary changes would result in an overall reduction in the size of the restricted areas at Fort Devens and would improve the functionality of the training area as well as increase safety during training operations.

During periods when the restricted areas are not needed by the using agency, the airspace would be returned to the controlling agency (FAA, Boston Approach Control).

## **Regulatory Notices and Analyses**

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## **Environmental Review**

This proposal will be subjected to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," prior to any FAA final regulatory action.

## **List of Subjects in 14 CFR Part 73**

Airspace, Prohibited areas, Restricted areas.

## **The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

### **PART 73 - SPECIAL USE AIRSPACE**

1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

## § 73.41 Massachusetts [Amended]

2. Section 73.41 is amended as follows:

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### R-4102A, Fort Devens, MA [Amended]

**Boundaries.** Beginning at lat. 42°31'11"N., long. 71°38'29"W.;  
to lat. 42°30'55"N., long. 71°37'51"W.;  
to lat. 42°30'12"N., long. 71°38'05"W.;  
to lat. 42°29'38"N., long. 71°37'41"W.;  
to lat. 42°28'21"N., long. 71°39'14"W.;  
to lat. 42°28'11"N., long. 71°39'32"W.;  
to lat. 42°28'11"N., long. 71°39'38"W.;  
to lat. 42°28'15"N., long. 71°39'45"W.;  
to lat. 42°28'25"N., long. 71°40'08"W.;  
to lat. 42°28'54"N., long. 71°41'00"W.;  
to lat. 42°29'08"N., long. 71°41'06"W.;  
to lat. 42°29'52"N., long. 71°41'08"W.;  
to lat. 42°30'17"N., long. 71°41'29"W.;  
to lat. 42°30'19"N., long. 71°41'19"W.;  
to lat. 42°30'37"N., long. 71°40'30"W.;  
to lat. 42°30'43"N., long. 71°40'17"W.;  
to lat. 42°30'52"N., long. 71°40'14"W.;  
to lat. 42°30'54"N., long. 71°40'10"W.;  
to lat. 42°30'53"N., long. 71°40'02"W.;  
to lat. 42°30'48"N., long. 71°39'57"W.;  
to lat. 42°30'47"N., long. 71°39'45"W.;  
to lat. 42°30'55"N., long. 71°39'31"W.;  
to lat. 42°30'58"N., long. 71°39'18"W.;  
to lat. 42°30'57"N., long. 71°39'09"W.;  
to lat. 42°30'52"N., long. 71°38'42"W.;  
to lat. 42°30'58"N., long. 71°38'33"W.;  
to lat. 42°31'06"N., long. 71°38'37"W.;  
thence to the point of beginning.

**Designated altitudes.** Surface to, but not including, 2000 feet MSL.

**Time of designation.** Intermittent, 0730-2200 local time, daily; other times by NOTAM issued 24 hours in advance.

**Controlling agency.** FAA, Boston Approach Control.

**Using agency.** Commander, U.S. Army Garrison, Fort Devens, MA.

### R-4102B, Fort Devens, MA [Amended]

**Boundaries.** Beginning at lat. 42°31'11"N., long. 71°38'29"W.;  
to lat. 42°30'55"N., long. 71°37'51"W.;  
to lat. 42°30'12"N., long. 71°38'05"W.;  
to lat. 42°29'38"N., long. 71°37'41"W.;  
to lat. 42°28'21"N., long. 71°39'14"W.;  
to lat. 42°28'11"N., long. 71°39'32"W.;  
to lat. 42°28'11"N., long. 71°39'38"W.;  
to lat. 42°28'15"N., long. 71°39'45"W.;  
to lat. 42°28'25"N., long. 71°40'08"W.;  
to lat. 42°28'54"N., long. 71°41'00"W.;



to lat. 42°29'08"N., long. 71°41'06"W.;  
to lat. 42°29'52"N., long. 71°41'08"W.;  
to lat. 42°30'17"N., long. 71°41'29"W.;  
to lat. 42°30'19"N., long. 71°41'19"W.;  
to lat. 42°30'37"N., long. 71°40'30"W.;  
to lat. 42°30'43"N., long. 71°40'17"W.;  
to lat. 42°30'52"N., long. 71°40'14"W.;  
to lat. 42°30'54"N., long. 71°40'10"W.;  
to lat. 42°30'53"N., long. 71°40'02"W.;  
to lat. 42°30'48"N., long. 71°39'57"W.;  
to lat. 42°30'47"N., long. 71°39'45"W.;  
to lat. 42°30'55"N., long. 71°39'31"W.;  
to lat. 42°30'58"N., long. 71°39'18"W.;  
to lat. 42°30'57"N., long. 71°39'09"W.;  
to lat. 42°30'52"N., long. 71°38'42"W.;  
to lat. 42°30'58"N., long. 71°38'33"W.;  
to lat. 42°31'06"N., long. 71°38'37"W.;  
thence to the point of beginning.

**Designated altitudes.** 2000 feet MSL to 3995 feet MSL.

**Time of designation.** Intermittent, 0730-2200 local time, daily; other times by NOTAM issued 24 hours in advance.

**Controlling agency.** FAA, Boston Approach Control.

**Using agency.** Commander, U.S. Army Garrison, Fort Devens, MA.

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George Gonzalez,

Acting Manager, Rules and Regulations Group.

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